

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 00-0174**

**Individual Income Tax  
Calendar Years 1996 and 1997**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE(S)**

**I. Indiana Adjusted Gross Income – Distributive Share of Income from S corporation**

**Authority:** 45 IAC 3.1-1-7

Taxpayer protests the limiting of its business losses.

**STATEMENT OF FACTS**

Taxpayer is a 100% shareholder in an S Corporation. Per 45 IAC 3.1-1-7, "Indiana residents with income from partnerships and Subchapter S corporations are subject to Adjusted Gross Income Tax on their distributive share of partnership or corporate income." The S-Corporation incurred losses for the years 1996 and 1997. Taxpayer deducted the entire losses on its 1040 Individual Income Tax Returns.

An administrative hearing was conducted on May 15, 2001 in which the taxpayer's representatives state that the wrong basis was utilized limiting taxpayer's losses from its business; i.e. contributed loans were not included in the basis. At hearing, taxpayer was advised to produce loan documentation in order to reduce the assessment. On June 18, 2001, September 17, 2001, and February 8, 2002, the Department asked the Taxpayer's representative to provide the necessary information. The February letter also advised the taxpayer that the Letter of Findings would be written if no response was forthcoming. No further information has been provided.

**I. Indiana Adjusted Gross Income – Distributive share of income from S corporation**

**DISCUSSION**

Taxpayer is a shareholder in an S Corporation that had losses. The audit limited taxpayer's losses to its basis in the S Corporation's stock in accordance with Internal Revenue Code Section 1366 (d).

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Taxpayer's representative states it would provide loan documentation in order to reduce the audit.

In at least three attempts after hearing, the Department's legal representative asked the taxpayer for information to allow a reduction in the assessment. Taxpayer provided nothing to aid in the resolution of the audit.

**FINDING**

Taxpayer's protest is denied.

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